

Jean A. Martin

Senior Attorney – Health, Safety & Environment

BP America Inc. and its subsidiaries
501 Westlake Park Blvd.
Mailcode WL1, 16,184
Houston, TX 77079
Tel: 281-366-6060
Cell: 323-309-9073
E-mail: Jean.Martin@bp.com

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ENVIRONMENTAL
PROTECTION AGENCY

DEC 30 2011

MONTANA OFFICE

Via Electronic Mail

Via First-Class Mail

D. Henry Elsen, Esq.
US EPA Region 8 Montana Office
Federal Building 10
West 15th Street, Suite 3200
Helena, MT 59626

William B. Kirley, Esq.
Department of Environmental Quality
P.O. Box 200901
Helena, MT 59620-0901

Re: Consent Decree for the Milltown Site ("Consent Decree")
Request for Financial Assurance Information

Dear Henry and Bill:

This letter follows up on a May 18, 2011 letter from EPA and the State of Montana that asks Atlantic Richfield Company to submit an "annual demonstration of financial assurance" for Remedial Action and certain operation and maintenance activities at the Milltown Site. As you know, Atlantic Richfield submits an annual demonstration of financial assurance for the Operation and Maintenance costs that are not covered by insurance under paragraph 66 of the Milltown Consent Decree. We currently provide an irrevocable letter of credit issued by JPMorganChase Bank on May, 6, 2011, TFTS No. [REDACTED], as financial assurance for these costs.

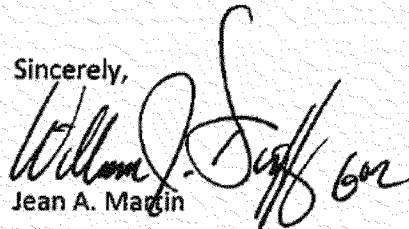
We understand that you are also asking for an annual assurance of Remedial Action, Operation and Maintenance costs that have been and continue to be funded through purchase of a \$70 million insurance policy, Policy No. [REDACTED], which was issued by American Specialty Lines Insurance Company (the "Insurer"), and approved by EPA and the State before the Consent Decree was lodged.

First, I want to assure you that the policy does remain in effect, and has not been cancelled by the Insurer or commuted by Atlantic Richfield Company without notice to you. The policy became effective June 30, 2003 and the policy term for Coverages D and E, which relate to funding for Remedial Action under the consent decree, continues through June 30, 2023. The Insurer has changed its name to Chartis Specialty Insurance Company, but this does not alter coverage.

Second, I want to inquire about the reason for asking for an annual demonstration that this policy remains in effect. As noted in Paragraph 66 of the Consent Decree, EPA and the State of Montana approved the Policy as financial assurance for the Remedial Action that it insures before the Consent Decree was signed by the parties in June and July 2005. With the cooperation of the Insurer, the parties negotiated Endorsement No. 13 to the Policy, made effective August 18, 2005, which confirms the rights and responsibilities of EPA, the Named Insureds (Atlantic Richfield and Envirocon) and the Insurer related to use of the Policy as financial assurance under the Consent Decree. The Consent Decree was entered by the Court in February 2006.

Atlantic Richfield does not agree that Paragraph 67 of the Consent Decree requires that Settling Defendants provide an annual demonstration that the Policy which EPA and the State previously approved remains in effect, so long as the approved Policy does remain in effect according to its terms. To the extent it is needed, this letter confirms that neither the Policy, nor any Coverages under the Policy, have been cancelled by the Insurer. Further, Atlantic Richfield has not commuted or cashed out the Policy. The Policy, including the Financial Assurance Endorsement, Endorsement No. 13, remains in effect according to its approved terms.

Sincerely,



Jean A. Martin

cc: Daniella Golden, EPA (e-mail only)
John Sither, DOJ (e-mail only)
Chrisna Tan, EPA (e-mail only)
Diana Hammer, EPA (e-mail only)
Kieth Large, MDEQ (e-mail only)
Marc Ferries, P.E., (e-mail only)
Roy Thun (e-mail only)
William Duffy (e-mail only)
Richard Curley (e-mail only)
Kerri Stelcen (e-mail only)
Rebecca Summerville (e-mail only)
Matt Fein (e-mail only)
Bill Thompson (e-mail only)